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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SONDRA WILLIAMSON)	CASE NO.: 2:17-cv-02653-RFB-CWH
)	
Plaintiff,)	
)	
vs.)	<u>DISCOVERY PLAN AND</u>
)	<u>SCHEDULING ORDER</u>
AETNA LIFE INSURANCE COMPANY,)	
as Claims Administrator for the Bank of)	(Special Scheduling Review
America Long-Term Disability Plan; DOES I)	Requested)
through V; and ROE CORPORATIONS I)	
through V, inclusive,)	
)	
Defendants.)	
)	
)	

Plaintiff SONDRA WILLIAMSON and Defendant AETNA LIFE INSURANCE COMPANY (“AETNA”) jointly request special scheduling review and submit the following discovery plan and order for this case.

I. Rule 26(f) Conference.

In accordance with Fed. R. Civ. P. 26(f), a telephonic conference was held on December 18, 2017 between Julie A. Mersch, counsel for the Plaintiff, and Ann-Martha Andrews, counsel for AETNA. The parties agree that the standard discovery plan is not best suited for this lawsuit, for the reasons set forth below. The parties further certify, pursuant to LR 26-1(b)(7-8), that they have met and conferred regarding the possibility of using alternate dispute-resolution processes and alternate forms of case disposition including consent to trial

1 by a magistrate judge and the use of the Short Trial Program. The provisions of LR 26-
2 1(b)(9) do not apply as no jury trial is demanded in this matter.

3 **II. Nature of Case and Purpose of Special Review.**

4 This claim involves payment of long-term disability benefits under a group insurance
5 plan administered by WILLIAMSON's employer, Bank of America (Plan Administrator) for
6 the benefit of its employees. Bank of America delegated the administration of claims under
7 the plan to Defendant AETNA (Claims Administrator). The Plaintiff's complaint alleges a
8 claim under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, et
9 seq. ("ERISA"), seeking, *inter alia*, reinstatement of long-term disability benefits terminated
10 by AETNA and payment of past benefits. This action is brought pursuant to § 502(a)(1)(B)
11 of ERISA (29 U.S.C. §§ 1132 (a)(1)(B)). Discovery may be limited to the administrative
12 record for Plaintiff's administrative claim and appeal. The administrative record consists of
13 the information that was before Defendant at the time of its final decision, which includes,
14 *inter alia*, Plaintiff's medical records, Plaintiff's arguments for the payment of benefits, the
15 Plan Administrator's and Claim Administrator's decisions, and the long-term disability plan
16 documents.

17 No discovery plan and scheduling order is generally required for review of an
18 administrative record. LR 16-1(c)(1). An action for an administrative review usually requires
19 that the parties file a briefing schedule. LR 16-1(c). Accordingly, the parties jointly request
20 that this Court review and adopt the proposed non-standard discovery and case schedule set
21 forth below:

22 **III. Proposed Plan**

23 The parties have conferred and agree as follows:

24 **A. Production of the Administrative Record:** AETNA will disclose a
25 copy of the ERISA administrative record by **Monday, January 15, 2018.**

26 **B. Meet and Confer Period:** WILLIAMSON contends that she is entitled to

1 conduct discovery in this matter. AETNA does not concede that discovery is appropriate or
2 permissible under the facts of this case.

3 Accordingly, WILLIAMSON will notify AETNA by **Monday, January 29, 2018** as
4 to the type of discovery and scope of discovery that she contends is permissible and should
5 be conducted, with reasonable specificity (including proposed written discovery where
6 possible). The parties will then meet and confer with each other to (1) identify areas of
7 agreement about permissible ERISA discovery; and (2) narrow the discovery requests, if
8 possible, to gain agreement about permissible ERISA discovery and narrow areas of dispute
9 about permissible areas of ERISA discovery. Any discovery that the parties agree is
10 permissible ERISA discovery shall be served by **Monday, February 12, 2018**.

11 **C. Briefing re: ERISA Discovery Disputes:** To the extent that, after the meet
12 and confer period, the parties disagree as to the permissible scope of discovery and type of
13 discovery, on or before **Wednesday, February 28, 2018**, the parties will simultaneously
14 brief the Court and request a ruling on any remaining disputes. Each party will set forth its
15 position in no more than 10 pages. If further discovery is permitted, the Court may set a
16 reasonable time deadline for completion of discovery at that time.

17 **D. Filing of ERISA Administrative Record and Briefing of the Merits of the**
18 **Case:** If no discovery briefs are filed under Paragraph III.C., above, on or before
19 **Wednesday, April 4, 2018**, Defendant will file the administrative record with this Court, the
20 contents of which will be agreed upon by the parties.

21 If a joint administrative record is timely filed and simultaneous motions are not filed
22 under Paragraph III.C., above, Plaintiff's Rule 52 and/or Rule 56 Motion shall be filed by
23 **Wednesday, May 2, 2018**. Defendant's response will be due on **Friday, June 1, 2018**, and
24 Plaintiff's reply memoranda will be due **Friday, June 15, 2018**.

25 If discovery motions are filed under Paragraph III.C., above, the deadlines set forth in
26 this Paragraph III.D. will be suspended. The parties will propose new deadlines after any

1 discovery motion has been ruled upon, to take into account any additional discovery time
2 permitted.

3 **IV. Settlement.**

4 The parties intend to engage in early settlement discussions, and may agree to a
5 mediation or settlement conference.

6 DATED: December 19, 2017

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8 By: /s/ Julie A. Mersch
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12 DATED: December 19, 2017

OGLETREE, DEAKINS, NASH, SMOAK &
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14 By: /s/ Ann-Martha Andrews
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19 **IT IS SO ORDERED:**

20 Dated December 21, 2017

21
22 
23 UNITED STATES MAGISTRATE JUDGE